

**Notice of Allowability**

Application No.

10/720,251

Applicant(s)

NAKAZAWA ET AL

Examiner

Anthony Quash

Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to an amendment filed, 3/22/05.
2. ☒ The allowed claim(s) is/are 1-10.
3. ☒ The drawings filed on 25 November 2003 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### **DETAILED ACTION**

Applicants' amendment, filed 3/22/05, has overcome the 112 rejection to claim 4 listed in the previous office action, dated 10/5/04.

#### ***Allowable Subject Matter***

Claims 1-10 are allowed over the prior art of record.

The following is an examiner's statement of reasons for allowance: With respect to independent claims 1,2,6, and dependent claims 3-5,7-9, the prior art of record does not disclose nor teach a sample observation method comprising a step of recognizing an image of an object in a transmission electron beam image of a sample by comparing it with a previously stored reference image, wherein computing a correlation between the specified object image and the a stored object image and a stored reference image, and displaying the results of computation for different tilt angles, and wherein multiple pairs of transmission electron beam images of multiple transmission electron beam images of multiple objects each having a different tilt angle with respect to the optical axis are stored as the reference images of the object, in combination with the remaining aspects of the claims. Since this aspect is not disclosed nor taught in the prior art of record, independent claims 1,2,6, and dependent claims 3-5,7-9, which also incorporate this aspect are deemed allowable over the prior art of record.

With respect to independent claim 10, the prior art of record does not disclose nor teach a transmission electron microscope, wherein the transmission electron microscope is further characterized in that the controller stores a set of multiple

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transmission electron microscope images having different irradiation angles of the electron beam as reference microscope images in advance, and the electron beam is applied to the sample to form a set of multiple transmission electron microscope images having different irradiation angles; thereby computing correlation between the set of the multiple transmission electron microscope images and the reference images, in combination with the remaining aspects of the claims. Since this aspect is not disclosed nor taught in the prior art of record, independent claims 10 is deemed allowable over the prior art of record.

In addition, applicants' arguments see amendment, filed 3/22/05, with respect to claims 1-10 have been fully considered and are persuasive.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Quash whose telephone number is (571)-272-2480. The examiner can normally be reached on Monday thru Friday 9 a.m. to 5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Lee can be reached on (571)-272-2477. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A. Quash  
*9.2*  
6/2/05

*Nikita Wells*  
NIKITA WELLS  
PRIMARY EXAMINER  
*06/03/05*